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July 30, 2018

**VIA ECFS**

Marlene H. Dortch  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation  
CG Docket Nos. 18-152 & 02-278

Dear Ms. Dortch:

On July 26, 2018, on behalf of Sirius XM Radio Inc. (“SiriusXM”), James S. Blitz, Vice President, Regulatory Counsel to SiriusXM, Bryan Tramont, and the undersigned, both outside counsel to SiriusXM, met with Patrick Webre, Mark Stone, Kurt Schroeder, and Kristi Thornton of the Consumer Governmental Affairs Bureau. During the meeting, we reiterated points made in SiriusXM’s comments and reply comments in response to the Commission’s public notice on interpreting and implementing the Telephone Consumer Protection Act (“TCPA”) in light of the D.C. Circuit’s *ACA International* decision.<sup>1</sup>

Specifically, we explained that consistent with the plain text of the statute and the guidance in *ACA International*, the Commission must confirm that under the TCPA, the term “automatic telephone dialing system” (“ATDS”) includes only such equipment that can generate and automatically dial random or sequential numbers, and only to the extent such equipment is configured to do so at the time the call is made. We also noted that the commenters in the record that urge the Commission to maintain its prior ATDS interpretations simply ignore the D.C. Circuit’s clear directives in *ACA International*, making little or no attempt to explain how their interpretations would be consistent with the court’s guidance. We also explained that while SiriusXM’s telemarketing vendors do not use an ATDS, the company nevertheless has been subject to costly TCPA litigation.

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<sup>1</sup> Public Notice, Consumer and Governmental Affairs Bureau Seeks Comment on Interpretation of the Telephone Consumer Protection Act in Light of the D.C. Circuit’s *ACA International* Decision, CG Docket Nos. 18-152 & 02-278 (rel. May 14, 2018) (“*Public Notice*”); Comments of Sirius XM Radio Inc., CG Docket Nos. 18-152 & 02-278 (filed June 13, 2018); Reply Comments of Sirius XM Radio Inc., CG Docket Nos. 18-152 & 02-278 (filed June 28, 2018).

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Ms. Marlene H. Dortch

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Please do not hesitate to contact the undersigned with any questions.

Sincerely,

/s Joshua M. Bercu/

Joshua M. Bercu